

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Alexandria Division

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LOUIS M. TUTT, III )  
v. )  
RYAN D. McCARTHY, ACTING SECRETARY OF )  
THE ARMY )  
Defendant. )  
\_\_\_\_\_  
Plaintiff, )  
v. )  
Civil Action No. 1:19-cv-00588  
Hon. Liam O'Grady

**ORDER**

Before the Court is the Motion for Summary Judgment filed by Defendant Ryan D. McCarthy, Acting Secretary of the Army. Dkt. 33. Plaintiff has responded in opposition, Dkt. 40, and Defendant has replied in support, Dkt. 43.

No discovery has been taken in this case, and none was requested after the case was remanded to this Court from the Fourth Circuit Court of Appeals. Defendant subsequently filed the instant Motion for Summary Judgment. Dkt. 33. In his opposition, Plaintiff now requests that discovery be taken in this case. Dkt. 40 at 9-14. The Court agrees that discovery is appropriate. *See Fed. R. Civ. P. 56(d).*

Therefore, the pending Motion for Summary Judgment, Dkt. 33, is **DENIED WITHOUT PREJUDICE**. An appropriate scheduling order shall issue.

It is **SO ORDERED**.

July 6, 2022  
Alexandria, Virginia

*6/6*  
Liam O'Grady  
United States District Judge